



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/634,998

08/06/2003

Daisuke Komaki

62758-052

7489

20277

7590

02/25/2008

MCDERMOTT WILL & EMERY LLP

600 13TH STREET, N.W.

WASHINGTON, DC 20005-3096

EXAMINER

KARMELEK, ALISON L.

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

02/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/634,998

Applicant(s)

KOMAKI ET AL.

Examiner

ALISON KARMELEK

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 06082003
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final, first office action upon examination of application number 10/634,998. Claims 1-17 are pending and have been examined on the merits discussed below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Clarification is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 15-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A software program not embodied on

computer-readable or computer-executable medium is software per se. Software, programming, instructions or code not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in a computer. When such descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases. Claims 15-17 do not utilize the proper computer program format and effectively recite descriptive material (software) per se. Claims 15-17 are therefore deemed to be directed to non-statutory subject matter where there is no indication that the proposed software is recorded on computer-readable medium and/or capable of execution by a computer.

Furthermore, software, programming, instructions or code not claimed as being computer executable are not statutory because they are not capable of causing functional change in a computer. In contrast, when a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer and the program, and the computer is capable of executing the program, allowing the program's functionality to be realized, the program will be statutory. See MPEP 2106.01.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3623

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Katz et al. (US Pub No. 2003/0033179).
9. As per claim 1, Katz et al. teaches a forecast value estimating method for estimating forecast values formed by a plurality of companies by use of a computer, said forecast value estimating method comprising: executing one of or both of processing for determining an exception for said forecast value as a different estimation of said forecast value in which, by applying, to said forecast values formed by said companies, criteria of said exception for said forecast value for determining whether or not said forecast value matches said exception for said forecast value, it is determined whether or not said forecast value matches said exception for said forecast value, and processing for determining an exception for basis information indicating a factor for calculating the forecast values formed by the companies as a different estimation of the basis information in which, by applying, to the basis information, criteria of determining whether or not said basis information matches said exception, it is determined whether or not the basis information matches the exception (paragraphs 39-40, 43, 47 and 50-63 teaches collaborative forecasting including discovery and analysis, or rather, for determining an exception for said forecast value); and

Determining the exceptions as different estimations of forecasts formed by said plurality of companies (paragraphs 58-63 teach analysis, which examines the

discovered data using user-specified algorithms and criteria and offers domain-specific solutions, or exceptions are different estimations of forecast formed by companies of different domains).

10. As per claim 2, Katz et al. teaches adding an importance to said basis information and designating said basis information by said importance in said processing for determining said exception of said basis information (paragraph 64 teaches incorporating priorities and preferences, paragraph 180 teaches a supplier allocation model which allocates a weight to the supplier model, or determines an importance to basis information of forecasting supplies by a supplier, and designates which supplier is of greater importance, which can be considered in the discovery and analysis of determining the exception).

11. As per claim 3, Katz et al. teaches executing processing for calculating a recommended forecast value is calculated to correct said forecast value when determining said exception (paragraphs 64-65 teach the recommendation services provided post discovery and analysis).

12. As per claim 4, Katz et al. teaches executing processing for calculating recommended basis information in which said recommended basis information is calculated to correct said basis information when determining said exception (paragraphs 64-65 teach the recommendations services post discovery and analysis).

13. As per claim 5, Katz et al. teaches adding an importance to said basis information and designating the basis information as a target of said processing for calculating the recommended basis information by the importance (paragraphs 100-102

teach target information for inventory, parts, and deviation from target, or importance of meeting the target).

14. As per claim 6, Katz et al. teaches correcting said forecast value on said recommended forecast value (paragraphs 66-70 teach executing recommended actions or correcting said forecast value on said recommended forecast value).

15. As per claim 7, Katz et al. teaches said basis information based on said recommended basis information (paragraphs 66-70).

16. As per claim 8, Katz et al. teaches a server comprising: first storing means for storing forecast values which are forecasted by a plurality of companies (paragraphs 41-42 teach internal databases with forecasts);

Second storing means for storing exception criteria for the forecasted values, indicating criteria for determining an exception for the forecast value as a different estimation of said forecast value (paragraphs 49 and 82-107 teach modules embodied on software for the analysis and domain-specific and user-specified criteria for discovery and analysis on internal criteria, or forecasts, or rather analysis of exception criteria);

Means for determining the exception criteria for said forecast value which determine the exception for said forecast value by applying said forecast value and the exception criteria for said forecast value (paragraphs 49 and 82-107);

Third storing means for storing basis information indicating a factor for calculating the forecast values formed by the companies (paragraphs 82, 177, 352 and 355 teach calculating forecasts);

Means for determining an exception for the basis information which determines the exception for the basis information which determines the exception for the basis information by applying exception criteria for the basis information for determining the exception of the basis information as a different estimation of the basis information (paragraphs 49 and 82-107).

17. As per claim 9, Katz et al. teaches Importance information indicating an importance is added to said basis information, and said means for determining the exception for the basis information designates the basis information used for the determination in accordance with said importance information (paragraph 64 teaches incorporating priorities and preferences, paragraph 180 teaches a supplier allocation model which allocates a weight to the supplier model, or determines an importance to basis information of forecasting supplies by a supplier, and designates which supplier is of greater importance, which can be considered in the discovery and analysis of determining the exception).

18. As per claim 10, Katz et al. teaches means for calculating a recommended forecast value which calculate the recommended forecast value to correct said forecast value when said means for determining the exception for the forecast value determines the exception (paragraphs 64-65 teach the recommendation services provided post discovery and analysis).

19. As per claim 11, Katz et al. teaches means for calculating recommended basis information which calculate the recommended basis information to correct said basis information when said means for determining said exception for the basis information

determines the exception (paragraphs 64-65 teach the recommendations services post discovery and analysis).

20. As per claim 12, Katz et al. teaches importance information indicating an importance is added to said basis information, and said importance is added to said basis information, and said importance designates the basis information as a calculating target of said means for calculating the recommended basis information (paragraphs 100-102 teach target information for inventory, parts, and deviation from target, or importance of meeting the target).

21. As per claim 13, Katz et al. teaches forecast-value correcting means which correct said forecast value based on said recommended forecast value (paragraphs 66-70 teach executing recommended actions or correcting said forecast value on said recommended forecast value).

22. As per claim 14, Katz et al. teaches basis-information correcting means which correct basis information based on said recommended basis (paragraphs 66-70 teach executing recommended actions or changing internal information, or correcting basis information as recommended).

23. As per claims 15-17, they recite software per se for performing the methods of claims 1 and 3-4. Since Katz et al. teaches software modules (paragraph 10), claims 15-17 are rejected for the same reasons set forth above in claims 1 and 3-4.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Humenansky et al. (US Pub. No. 2004/0064349) teaches techniques to improve the accuracy and predictability of enterprise planning by enabling organizations to reconcile corporate models and organizational targets with detailed forecasts in real-time where the techniques provide a platform that delivers collaborative, real-time planning capabilities, without requiring offline consolidations and aggregation of forecasts.

Zarb (US Pub. No. 2004/0039619) teaches improvements to an organization's business process and related physical, digital and/or collaborative assets can be forecasted and more efficiently analyzed, measured and managed. Further, Zarb teaches implementing an analysis of strategies by department roles.

Helmolt et al. (US Pub. No. 2003/0172007) teaches collaborative planning, forecasting and replenishment initiatives.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALISON KARMELEK whose telephone number is (571)272-1808. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AK

/A. K./

Examiner, Art Unit 3623

/Romain Jeanty/

Primary Examiner, Art Unit 3623